Beneficial Innovations, Inc. v. Blockdot, Inc. et al Doc. 64

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC., Plaintiff, vs. BLOCKDOT, INC., a Texas Corporation; CAREERBUILDER, LLC., a Delaware corporation; CNET NETWORKS, INC., a Delaware corporation; DIGG, INC., a Delaware corporation; EBAUM'S WORLD, INC., a New York corporation; JABEZ NETWORKS, INC., a Tennessee corporation; THE NEW YORK TIMES COMPANY, a New York corporation; WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC; a Delaware Corporation; THE WEATHER CHANNEL INTERACTIVE, INC., a Georgia corporation, Defendants.	CASE NO. 2:07-cv-263 (TJW/CE) **Jury Trial Demanded**

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Beneficial Innovations, Inc. ("Beneficial Innovations") sues Defendants Blockdot, Inc., Careerbuilder, LLC, CNET Networks, Inc., Digg, Inc., Ebaum's World, Inc., Jabez Networks, Inc., The New York Times Company, Washingtonpost.Newsweek Interactive Company, LLC, and The Weather Channel Interactive, Inc. (collectively "Defendants") and, on information and belief, alleges as follows:

Introduction

1. Plaintiff Beneficial Innovations, Inc. ("Beneficial Innovations") owns the

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inventions described and claimed in United States Patent Nos. 6,712,702 entitled "Method and System for Playing Games on a Network" (the "'702 Patent") and 6,183,366 entitled "Network Gaming System (the "'366 Patent") (collectively "the Patents"). Defendants (a) have used and continue to use Plaintiff's patented technology in products that they make, use, import, sell, and offer to sell, and (b) have contributed to or induced, and continue to contribute to or induce, others to infringe the Patents. Beneficial Innovations seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling, or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell, the technology claimed by the Patents without Plaintiff's permission.

Jurisdiction and Venue

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq*. The Court has original jurisdiction over this patent infringement action under 28 U.S.C. § 1338(a).

3. Each of the Defendants has committed acts and continues to commit acts within this judicial district giving rise to this action. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

Plaintiff Beneficial Innovations

4. Plaintiff Beneficial Innovations is a corporation existing under and by virtue of the laws of the State of Nevada.

Defendants

5. Defendant Blockdot, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business in Dallas, Texas.

6. Defendant Careerbuilder, LLC is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois.

7. Defendant CNET Networks, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

8. Defendant Digg, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

9. Defendants Ebaum's World, Inc. is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Rochester, New York.

10. Defendant Jabez Networks, Inc. is a corporation organized and existing under the laws of the State of Tennessee, with its principal place of business in Brentwood, Tennessee.

11. Defendant The New York Times Company is a corporation organized and existing under the laws of the State of New York, with its principal place of business in New York, New York.

12. Defendant Washingtonpost.Newsweek Interactive Company, LLC is a corporation organized and existing under the laws of the State of Delaware.

13. Defendant The Weather Channel Interactive, Inc. is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business in Atlanta, Georgia.

First Claim for Patent Infringement
(infringement of the '702 patent)

14. Plaintiff incorporates by reference each of the allegations in paragraphs 1 - 13 above and further alleges as follows:

15. The United States Patent and Trademark Office issued the '702 patent on March 30, 2004. Attached as Exhibit A is what is believed to be a copy of the text of the '702 patent. Through assignment, Plaintiff is the owner of all right, title, and interest in the '702 patent, including all rights to pursue and collect damages for past infringements of the patent.

16. Defendants Blockdot, Inc., Careerbuilder, LLC, CNET Networks, Inc., Digg, Inc., Ebaum's World, Inc., Jabez Networks, Inc., The New York Times Company, Washingtonpost.Newsweek Interactive Company, LLC, and The Weather Channel Interactive have infringed, contributed to the infringement, or induced others to infringe the '702 Patent and, unless enjoined, will continue to infringe the '702 Patent by using the method(s) claimed in the '702 Patent or by contributing to or inducing others to use the claimed method(s), including at least the use of the patented methods on the following websites, without a license or permission from Plaintiff:

Defendant	Infringing website
Blockdot, Inc.	www.kewlbox.com; www.boxerjam.com
Careerbuilder, LLC	www.careerbuilder.com
CNET Networks, Inc.	www.gamespot.com; www.download.com; www.cnet.com
Digg, Inc.	www.digg.com
Ebaum's World, Inc.	www.ebaumsworld.com
Jabez Networks, Inc.	www.rivals.com
The New York Times Company	www.nytimes.com
Washingtonpost.Newsweek Interactive Company, LLC	www.washingtonpost.com
The Weather Channel Interactive	www.weather.com

17. Plaintiff has been damaged by Defendants' infringement of the '702 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '702 patent.

18. The Defendants are and have been willfully infringing one or more claims of the '702 patent.

19. Plaintiff is entitled to recover damages from the Defendants to compensate them for the infringement.

20. Plaintiff demands trial by jury of all issues relating to this claim.

Second Claim for Patent Infringement
(infringement of the '366 patent)

21. Plaintiff incorporates by reference each of the allegations in paragraphs 1 - 13 above and further alleges as follows:

22. The United States Patent and Trademark Office issued the '366 patent on February 6, 2001. Attached as Exhibit B is what is believed to be a copy of the text of the '366 patent. Through assignment, Plaintiff is the owner of all right, title, and interest in the '366 patent, including all rights to pursue and collect damages for past infringements of the patent.

23. Defendants Blockdot, Inc., Careerbuilder, LLC, CNET Networks, Inc., Digg, Inc., Ebaum's World, Inc., Jabez Networks, Inc., The New York Times Company, Washingtonpost.Newsweek Interactive Company, LLC, and The Weather Channel Interactive have infringed, contributed to the infringement, or induced others to infringe the '366 Patent and, unless enjoined, will continue to infringe the '366 Patent by using the method(s) claimed in the '366 Patent or by contributing to or inducing others to use the claimed method(s), including at least the use of the patented methods on the following websites, without a license or permission from Plaintiff:

Defendant	Infringing website
Blockdot, Inc.	www.kewlbox.com; www.boxerjam.com
Careerbuilder, LLC	www.careerbuilder.com
CNET Networks, Inc.	www.gamespot.com; www.download.com; www.cnet.com
Digg, Inc.	www.digg.com
Ebaum's World, Inc.	www.ebaumsworld.com

Jabez Networks, Inc.	www.rivals.com
The New York Times Company	www.nytimes.com
Washingtonpost.Newsweek Interactive Company, LLC	www.washingtonpost.com
The Weather Channel Interactive	www.weather.com

24. Plaintiff has been damaged by Defendants' infringement of the '366 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '366 patent.

25. The Defendants are and have been willfully infringing one or more claims of the '702 patent.

26. Plaintiff is entitled to recover damages from the Defendants to compensate them for the infringement.

27. Plaintiff demands trial by jury of all issues relating to this claim.

WHEREFORE, Plaintiff prays for judgment as follows:

A. A decree preliminarily and permanently enjoining Defendants, their officers, directors, employees, agents, and all persons in active concert with them, from infringing, and contributing to or inducing others to infringe, the '702 and '366 patents;

B. Compensatory damages for Defendants' infringement of the '702 and '366 patents;

C. Treble the compensatory damages as consequence of Defendants' willful infringement;

D. Costs of suit and attorneys' fees on the basis that this patent infringement case is exceptional;

E. Pre-judgment interest; and

F. For such other relief as justice requires.

Dated: September 11, 2007

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 11th day of September, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux